

Latin America: criminalization of indigenous and environmental advocates increases

In the middle of a climate crisis, those who advocate for the environment are persecuted for exercising their right to social protest. As guardians of nature, indigenous people are the most affected. In many occasions, economic groups use the State's power to take away legitimacy and suppress social protest.

By Katherine Paucar - March 1st, 2021

*To give up your own life to protect rivers
is to give up your life for the good of humanity.*

Bertha Cáceres

In 2013, [some studies about climate change](#) pointed out that by 2050 the environmental impact in Latin America would cause the gradual extinction of the Amazon species and the loss of ecosystem services. Only eight years have gone by and we still continue on the path predicted. If this was not enough, indigenous peoples are the most affected since they have been taking care of, defending and protecting these territories and the planet's biodiversity for millennia. Despite being Mother Nature's guardians, the indigenous communities not only suffer the impact of the socioecological crisis but also the criminalization of their right to social protest every time they oppose to the economic policies that promote the extraction and exploitation of their territories disregarding human rights and Mother Nature.

Criminalization in figures

Even though there is no concrete statistical data regarding criminalization proceedings initiated against environmental advocates across Latin America, particularly against indigenous peoples, in 2014, [Global Witness documented the murder of 116 environmental and land activists](#), many of whom suffered criminalization, aggressions and saw their freedom restricted. In fact, the [Inter-American Commission on Human Rights \(IACHR\)](#) reported that 3064 cases of criminalization of human rights advocates were registered from 2010 to 2014 in Honduras.

In 2015, the [murder of 185 advocates](#) was documented, 66% of which came from Latin American countries. A year later, the International Federation for Human Rights [took a stance against the criminalization of human right advocates](#) and highlighted that, even though this is a regional phenomenon, in countries such as Brazil, Ecuador, Guatemala, Honduras, Mexico, Nicaragua and Peru there are significant criminalization cases. In 2017, the situation did not change: a total of 207 activists were reported murdered, 60% of them were from Latin America.

Although these murders are not registered as an element or type of criminalization, it is important to consider that many of them occur while exercising the right to protest. In this context, the indigenous people are still the most affected: it has been documented that the main reason for social protests in Latin America is related to [demands of respect for indigenous peoples' rights](#).

In 2019, things have not changed much. [Global Witness publicly reported that indigenous peoples were being criminalized](#) “by the governments and the companies with which they colluded in order to silence those who threaten their interests”. In the same year, by means of the [Global Analysis report made by Front Line Defenders](#), we became aware of the fact that there were 895 cases of human rights violations. While 57% of them related to some type of criminalization (20% concerns a legal action against those people, 22%

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arrests, 10% threats, 3% smear campaigns, and 2% verbal aggression), 40% related to people who defended the land, indigenous peoples' rights and the environment.

In 2020, Global Witness stated that along with the climate crisis there is an increase in threats and murders of those who protect their land and the environment. It highlighted that, despite the above, the communities continue to defend their rights, the environments and the woods. In fact, [in Colombia, during 2020 alone, 284 social leaders were reported murdered](#). This figure has to be added to the 800 social leaders and human right advocates who have been murdered since the Peace Agreement, from 2016 to 2019.

What are we making reference to when we mention the criminalization of social protest?

Criminalization of social protest include those acts that aim at taking away legitimacy and at smearing the reputation of people and the rights related to it, such as the right to free speech, the right of assembly and freedom of association. These acts are usually organized and encouraged by the State, big business and by those who are against people who oppose the government's economic policies.

The criminalization of social protest produces a negative impact on those who exercise legitimate rights that have been acknowledged in many domestic and international treaties. Regarding environmental advocates, there are personal, family, institutional and social impacts. At a personal level, criminalization causes activists great economic loss, fear, and anguish; at a family level, it causes fear and distress concerning the life and legal situation of the relative who is being criminalized; at an institutional level, it weakens the social organization that represents the community, indigenous people or primary social institutions; and at a social level, it sends an implicit message to the people showing what may happen to others if they participate in a social protest.

In the last few years, advocates in Latin America are victims of two types of criminalization: media criminalization and legal criminalization. The first one occurs due to

constant discrediting and smearing of the social protest by the media with phrases such as “anti-development”, “environmental terrorist”, “criminals”, “communists”, or “socialists”.

Legal criminalization, on the other hand, takes place when the acts performed during a social protest are considered “criminal” and when the State passes laws that promote and encourage criminalization and the disproportionate use of public force. The combination of both types of criminalization makes environmental advocates vulnerable to the public policies that aim at promoting actions that affect them.

Actors in criminalization

The States, the companies, and law enforcement officers are three key players in the process of criminalization of human rights advocates. The States criminalize indigenous peoples by means of four mechanisms used separately or jointly. In the first place, they promote and create environmental audit regulations that benefit extractive industries that operate in indigenous lands. At the same time, they create relaxed rules in favor of the indigenous peoples that, in practice, do not guaranty any real protection of their rights.

Thirdly, they create rules that allow law enforcement officers to protect the economic interests of private sectors: a very clear example are the [agreements executed in order for the police to patrol extractive company's sites](#). Finally, they stigmatize and discredit public and legal complaints regarding environmental damage caused to indigenous lands. Defamation is necessary for the advocate to be perceived as the “enemy” and to use public opinion to undermine their rights. In a 2019 report, the Inter-American Commission on Human Rights and Global Witness pointed out that the companies tend to use the state’s punitive power, such as legislators, judges and prosecutors, in order to stigmatize and take away legitimacy from environmental advocates.

As mentioned by the former Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz criminalization begins “when indigenous leaders and members of

their communities express their opposition to large-scale projects related to the extractive industry, agroindustry, infrastructure, hydroelectric dams and deforestation.” However, the aggression against indigenous peoples intensifies when the economic corporations influence public institutions and make sure they create regulations that protect the business activity.

Lastly, law enforcement officers are key players in the criminalization process of environmental advocates, especially when it comes to indigenous peoples. Despite being constitutionally recognized as protectors of people’s safety and of internal order, they are questioned due to the excessive use of force and cases of human rights violations committed during social protests against extractive activities located in indigenous territories.

Conclusions

Criminalization of social protest against indigenous peoples is a phenomenon that has increased in the last few years. Even though there are many investigations and statements made by institutions of the Inter-American Human Rights System in favor of environmental advocates, the States have not been able to make it possible for environmental advocates to exercise their rights freely, peacefully and safely.

The States have not understood that the increase in criminalization cases against environmental advocates directly affects their democracies. If States cannot guarantee the respect, recognition and protection of rights, democracy becomes demagoguery since it does not contemplate the freedom of speech and the right to social protest.

The negative impact produced by criminalization of social protests by environmental advocates causes damages that have not yet been remedied or answered. In general, the States do not consider themselves liable for the economic loss, the time invested and the psychological impact produced by legal and media criminalization that is suffered by environmental advocates.

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As explained, the State, companies and law enforcing officers play a fundamental part in the criminalization process, both through criminal charges and stigmatization processes. Meanwhile, despite being the guardians of nature, ecosystems, and species, indigenous peoples are the social group with the highest number of legal criminalization, stigmatization and threat cases.

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